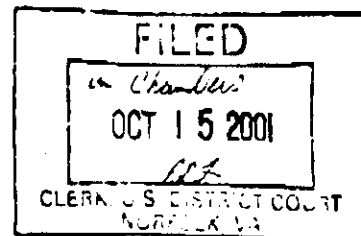


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA



FEDERAL TRADE COMMISSION,
COMMONWEALTH OF VIRGINIA
EX REL. RANDOLPH A. BEALES,
ATTORNEY GENERAL OF VIRGINIA,
STATE OF NORTH CAROLINA
EX REL. ROY COOPER,
ATTORNEY GENERAL OF
NORTH CAROLINA and
STATE OF WISCONSIN,
EX REL. JAMES E. DOYLE,
ATTORNEY GENERAL OF
WISCONSIN,

Plaintiffs,

v.

THE TUNGSTEN GROUP, INC.,
a corporation, also doing business as American
Savings Discount Club, also doing business as
Auto Services Discount Club, also doing business
as ASDC, also doing business as TTG Financial;
THE TUNGSTEN GROUP II, INC.,
a corporation, also doing business as American
Savings Discount Club, also doing business as
ASDC,
ROBERT J. DEMELLWEEK,
individually, and as an officer of the Tungsten
Group and the Tungsten Group II; and
DAVID VINCENT JENSEN,
individually, and as an officer of the Tungsten
Group II,

Defendants.

Case No. 2:01cv 773

EX PARTE TEMPORARY
RESTRAINING ORDER WITH
ASSET FREEZE, APPOINTMENT
OF RECEIVER, AND
EXPEDITED DISCOVERY, AND
ORDER TO SHOW CAUSE WHY
A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE

Plaintiffs, the Federal Trade Commission, the Commonwealth of Virginia *ex rel.*

Randolph A. Beales, Attorney General of Virginia, the State of North Carolina *ex rel.* Roy

Cooper, Attorney General of North Carolina, and the State of Wisconsin *ex rel.* James E. Doyle, Attorney General of Wisconsin, having filed their complaint for a permanent injunction and other relief in this matter pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b) and 57; the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.*; the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq.*; the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.1 *et seq.*; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1 *et seq.*; the North Carolina Telephonic Seller Registration and Bonding Act, N.C. Gen. Stat. § 66-260 *et seq.*; and the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(1) *et seq.*; and plaintiffs having applied *ex parte* for a temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the Court having considered the complaint, memoranda of law, declarations and other materials filed in support thereof, and now being advised in the premises, finds as follows:

1. This Court has jurisdiction of the subject matter of this case and there is good cause to believe it will have jurisdiction of all parties hereto.
2. Good cause exists to believe that plaintiffs ultimately will succeed in establishing that the above named defendants have engaged in, and are likely to engage in, acts and practices that violate Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a); the Federal Trade Commission's Telemarketing Sales Rule, 16 C.F.R. Part 310; the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq.*; the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.1 *et seq.*; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1 *et seq.*; the North Carolina Telephonic Seller Registration and Bonding Act,

N.C. Gen. Stat. § 66-260 *et seq.*; and the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(1) *et seq.*; and that plaintiffs are likely to prevail on the merits.

3. Good cause exists to believe that immediate and irreparable damage will occur to plaintiffs' ability to achieve effective final relief for consumers in the form of monetary redress from the transfer, destruction, concealment or other disposition of defendants' assets or corporate records unless the defendants are immediately restrained and enjoined. Good cause thus exists to relieve plaintiffs of the duty to provide defendants with prior notice of the plaintiffs' application. Good cause also exists to expedite discovery pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

4. Good cause exists for the appointment of a receiver for the corporate defendants The Tungsten Group, Inc., and The Tungsten Group II, Inc.

5. Weighing the equities and considering plaintiffs' likelihood of ultimate success, a Temporary Restraining Order with asset freeze, appointment of a receiver and other equitable relief is in the public interest.

6. No security is required of any agency of the United States for issuance of a restraining order. Fed. R. Civ. P. 65(c). Considering the public interest in this matter, and that the state plaintiffs are seeking the same injunctive relief as plaintiff FTC, it is appropriate to set any security required of the state plaintiffs at zero.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Defendants" means the corporate defendants, The Tungsten Group, Inc., and The Tungsten Group II, Inc., which also do business as American Savings Discount Club, Auto

Services Discount Club, ASDC, American Savings, and TTG Financial, and possibly other fictitious names; and the individual defendants, Robert J. Demellweek and David Vincent Jensen, and each of them, and their successors, assigns, officers, agents, servants, employees, attorneys and those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device.

2. "Receivership defendants" means the corporate defendants, The Tungsten Group, Inc., and The Tungsten Group II, Inc.

3. "Person" means a natural person, organization or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

4. "Consumer" and "customer" includes any individual, group, unincorporated association, limited or general partnership, corporation or other business entity.

5. The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary, and to make the applicable phrase or sentence inclusive rather than exclusive.

6. "Plaintiffs" means the Federal Trade Commission, the Commonwealth of Virginia *ex rel.* Randolph A. Beales, Attorney General of Virginia, the State of North Carolina *ex rel.* Roy Cooper, Attorney General of North Carolina, and the State of Wisconsin *ex rel.* James E. Doyle, Attorney General of Wisconsin.

7. "Commission" or "FTC" means plaintiff Federal Trade Commission.

I.

Prohibited Misrepresentations

IT IS THEREFORE ORDERED that, in connection with offering for sale or sale of any good or service, that defendants are hereby restrained and enjoined from making any express or implied representation of material fact that is false or misleading, including, but not limited to:

- A. any misrepresentation that, after paying a fee, a consumer will, or is highly likely to, receive a loan or other extension of credit;
- B. any misrepresentation that a consumer has been pre-approved for a loan or other extension of credit;
- C. any misrepresentation that a monthly membership fee is the monthly loan repayment amount;
- D. any misrepresentation that fees are refundable.

II.

Telemarketing Registration Requirements

IT IS FURTHER ORDERED that defendants are restrained and enjoined from failing to fully comply with any and all telemarketing registration requirements in each and every state of the United States in which they do business.

III.

Cease Violations of the Telemarketing Sales Rule

IT IS FURTHER ORDERED that defendants are restrained and enjoined from violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to, the following violations:

- A. requesting or receiving payment of a fee or consideration in advance of obtaining or arranging a loan or other extension of credit for consumers when defendants have guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for such consumers;
- B. misrepresenting, directly or by implication, that after paying defendants a fee, consumers will, or are highly likely to, receive a loan or other extension of credit;
- C. misrepresenting, directly or by implication, that a consumer has been pre-approved for a loan or other extension of credit;
- D. misrepresenting, directly or by implication, that a monthly membership fee is the monthly loan repayment amount;
- E. misrepresenting, directly or by implication, that any fees are refundable.

IV.

Cancellation Notices

IT IS FURTHER ORDERED that, in connection with a consumer sale or lease of goods or services in which defendants or a person acting for them engages in a solicitation of the sale or lease by telephonic or other electronic means at the buyer's residence in Virginia, defendants are restrained and enjoined from failing to provide to the buyer a written statement of the buyer's three-day right to cancel the sale and a form which the buyer can use to give defendants notice of cancellation of the sale as required by the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.4.

V.

Cancellation Refunds

IT IS FURTHER ORDERED that, in connection with a consumer sale or lease of goods or services in which defendants or a person acting for them engages in a solicitation of the sale or lease by telephonic or other electronic means at the buyer's residence in Virginia, defendants are restrained and enjoined from failing to return, within ten (10) days of cancellation by a buyer, any payments made by the buyer, as required by the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.5.

VI.

Asset Freeze

IT IS FURTHER ORDERED that defendants are hereby restrained and enjoined, until further order of this Court, from:

A. transferring, encumbering, concealing, removing, selling, incurring charges or cash advances on any credit card, or otherwise disposing of any funds, property, or assets of any kind, wherever located, that are:

1. owned or controlled in whole or in part by any defendant;
2. in the actual or constructive possession of any defendant;
3. held by an agent of any defendant as a retainer for the agent's provision of services to any defendant; or
4. owned by, controlled by or in the actual or constructive possession of, or otherwise held for the benefit of, any entity directly or indirectly owned, managed or controlled by any defendant; these assets shall also include but are not limited to any

assets held by, for or under the name of any defendant at any bank or other financial institution of any kind, and

B. transferring any funds or other assets subject to this Order for attorneys' fees, living expenses, business expenses, or any other purpose, except by Court order upon a showing of good cause.

PROVIDED, HOWEVER, that nothing in this Order shall prohibit any reversals of bank charges that occur in the ordinary course of business as required by any applicable banking laws or regulations.

VII.

Financial Reporting

IT IS FURTHER ORDERED that, within three days of receiving service of this Order, each defendant shall prepare and deliver to the Court, counsel for each plaintiff, and the receiver a completed financial statement on the forms attached to this Order, verified under oath and accurate as of the date of service of this Order upon them, for each such defendant individually and for each corporation of which such defendant is an officer.

VIII.

Financial Institutions

IT IS FURTHER ORDERED that any financial or brokerage institution, business entity, and any person having possession, custody or control of any records of any defendant, or of any account, safe deposit box or other asset titled in the name of any defendant, either individually or jointly or held for the benefit of any defendant, or that has maintained any such account, safe deposit box or other asset or record at any time since January 1, 1996, shall:

A. hold and retain within its control and prohibit the transfer, encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale or other disposal of any such account or other asset, except for transfers or withdrawals directed by the receiver or by further Court order;

B. deny access to any safe deposit box titled individually or jointly in the name of any defendant or otherwise subject to access by any defendant;

C. provide to counsel for each plaintiff and the receiver, within three business days of notice of this Order, a sworn statement setting forth:

1. the identification of each account, asset, or record;

2. the balance of each account or a description of the nature and value of each asset as of the close of business on the day this Order is served and, if the account or asset has been closed or moved, the balance or value removed and the person or entity to whom it was remitted; and

3. the identification of any safe deposit box subject to access by any defendant.

D. allow plaintiffs' representatives immediate access to inspect and copy all records of any defendant and all documents relating to any account, safe deposit box or other asset of any defendant. Alternatively, any financial institution, other entity or person may arrange to deliver to the Commission copies of any records it seeks for a charge not to exceed fifteen cents per page copied; and

E. cooperate with all reasonable requests by the receiver relating to implementation of this Order, including, but not limited to, transferring funds at the receiver's direction,

opening safe deposit boxes in the name of the receivership defendants, and producing records related to the receivership defendants' accounts, safe deposit boxes, or any assets or liabilities of the receivership defendants.

IX.

Asset Repatriation

IT IS FURTHER ORDERED that within three business days following service of this Order, the defendants and their successors, assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device, shall:

- A. take such steps as are necessary to repatriate to the territory of the United States of America all assets held by or for the benefit of any defendant, or under their direct or indirect control, jointly or singly, which were transferred outside of the territory of the United States; and
- B. thereafter hold and retain any such assets within their control and otherwise prevent any transfer, disposition, or dissipation whatsoever of any such assets or funds.

X.

Immediate Access to Defendants' Business Records

IT IS FURTHER ORDERED that the defendants and their successors, assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, and the receiver, shall allow

plaintiffs' representatives immediate access to the business premises, mail drops, storage facilities and all other business locations used by the defendants, including, but not limited to, the following locations:

800 Loudoun Avenue
Portsmouth, Virginia 23707

5624 Portsmouth Boulevard
Portsmouth, Virginia 23701

13553 66th Street North, Suite #101
Largo, Florida 33771

during reasonable hours as the receiver shall deem appropriate. The purpose of the access shall be to inspect and copy materials relevant to this action. Plaintiffs and the receiver may be accompanied by other law enforcement agents for the purpose of executing this Order and securing the premises. Plaintiffs and the receiver may exclude defendants and their officers, directors, employees, and agents from the premises during this time. Plaintiffs may, through photographs, drivers' licenses and questionnaires, identify and obtain information from individuals at the premises. Plaintiffs may remove materials from the business premises so they may be inspected, inventoried and copied. Plaintiffs shall return materials so removed within five (5) business days of completing said copying. In no event shall plaintiffs retain the materials longer than ten (10) business days.

IT IS FURTHER ORDERED that defendants shall have access to inspect and copy business records necessary to respond to discovery requests under the supervision and control of the receiver and subject to such reasonable restrictions as the receiver shall deem appropriate.

XI.

Expedited Discovery

IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 26(d) and 30(a), that plaintiffs are granted leave to conduct discovery at any time after service of this Order.

Plaintiffs may depose party witnesses upon three days' notice. Pursuant to Fed. R. Civ. P. 33, 34, and 36, plaintiffs may require defendants to respond to interrogatories, requests for production of documents and requests for admissions within five days after service of the interrogatories or requests.

XII.

Record Keeping

IT IS FURTHER ORDERED that defendants are hereby restrained and enjoined from:

- A. failing to create and maintain books, records, accounts and data which in reasonable detail, accurately, fairly and completely reflect their incomes, disbursements, transactions and use of monies; and
- B. destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, discs or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns and other documents or records of any kind which relate to

defendants' business practices or business or personal finances from January 1, 1996, forward.

XIII.

Notice

IT IS FURTHER ORDERED that defendants shall immediately provide a copy of this Order to each of the corporate defendants' affiliates, franchises, subsidiaries, divisions, successors, assigns, directors, officers, managing agents, employees, representatives, and independent contractors and shall, within three business days from the date of service of this Order, serve on each plaintiff and the receiver affidavits identifying the names, titles, addresses, and telephone numbers of the persons and entities whom they have served pursuant to this provision. The receiver has no obligation under this provision.

IT IS FURTHER ORDERED that individual defendants Robert J. Demellweek and David Vincent Jensen shall notify the plaintiffs and the receiver at least seven days prior to any discontinuance of their present businesses or employment and of their affiliation with any new, previously inactive, or other business or employment. Each notice shall include the defendant's new business address and a statement of the nature of the new business or employment and of his or her duties and responsibilities in connection with that business or employment.

XIV.

Appointment of Receiver

IT IS FURTHER ORDERED that

Donna J. Hall

is appointed as receiver without bond, with the full power of an equity receiver, for the receivership defendants; and all the funds, properties, premises, accounts, and other assets

directly or indirectly owned, beneficially or otherwise, by the receivership defendants, wherever located.

A. The receiver is directed, and has the authority, to:

1. assume full control of the receivership defendants by removing defendants Robert J. Demellweek and David Vincent Jensen, and any other officer, independent contractor, employee, or agent from control or management of the affairs of the receivership defendants and preventing them from taking any action on or behalf of the receivership defendants while the receivership is in effect;
2. take custody, control, and possession of all the funds, property, premises, mail, and other assets that are owned by the receivership defendants or that are in their possession or under their control;
3. open bank accounts in the name of the receiver and transfer any funds owned by the receivership defendants to those accounts;
4. sue for, collect, receive, and take into possession all goods, chattels, rights, credits, monies, effects, lands, leases, books and records, work papers, and records of accounts, including computer-maintained information and other papers and documents of the receivership defendants; **PROVIDED, HOWEVER,** that the receiver shall not attempt to collect any amount from a consumer if she believes the consumer was a victim of the deceptive acts or practices alleged in the Complaint in this matter;
5. preserve, hold, and manage the receivership defendants' assets, and perform all acts necessary to preserve the value of those assets;

6. prevent withdrawal or misapplication of funds or property entrusted to the receivership defendants and obtain an accounting thereof;

7. manage and administer the receivership defendants' businesses, at the receiver's discretion and until further order of this Court, by performing all acts necessary or incidental thereto; this includes the hiring of personnel to assist with those duties without court approval, including, but not limited to, experts, consultants, attorneys, accountants, and paralegals and other members of the receiver's law firm, and suspending or terminating employees of the receivership defendants or suspending operations of the receivership defendants;

8. disburse funds that the receiver deems necessary and advisable to preserve the property of the receivership defendants or carry out the receiver's mandate under this Order;

9. collect any monies owed the receivership defendants;

10. institute, defend, compromise, adjust, intervene in, become a party to or otherwise dispose of any or all actions or proceedings in local, state, federal, or foreign courts that the receiver deems necessary and advisable to preserve the property of the receivership defendants or carry out the receiver's mandate under this Order;

11. take any action that could be taken by the officers or directors of the receivership defendants;

12. record this order in any jurisdiction in which the receivership defendants own or control property and serve this order on any person or entity she deems appropriate in furtherance of her responsibilities in this matter; and

13. take all actions reasonably necessary to ensure that no assets or property of the receivership defendants are removed from any business premises of the receivership defendants without the prior consent of the receiver.

B. The receiver shall be compensated for services rendered to the receivership estate from the receivership estate during the pendency of the case. Prior to paying any compensation, the receiver shall file and serve upon all parties a request with the Court, outlining the services rendered and the related fees and expenses. The defendants shall have no right to object to such request. The receiver shall not pay any compensation except upon order of the Court; **PROVIDED, HOWEVER**, that notwithstanding anything to the contrary in this paragraph, the receiver is authorized to pay from the assets of the receivership defendants, to herself and any person engaged or employed by her, a reasonable retainer to secure payment of the costs, fees, and expenses of the receiver or any person employed by the receiver, with such retainer to be held pending approval of the costs, fees, and expenses by the Court; **PROVIDED FURTHER** that should some portion of any receivership defendants' assets become seized as part of a civil or criminal forfeiture proceeding, nothing in this Order shall be interpreted to preclude such assets from inclusion in the receivership estate or to preclude the receiver from applying to any forfeiture authorities for the release of funds for the purposes of obtaining compensation for services rendered in this matter.

Other Actions Stayed

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of the receivership ordered herein, defendants and all customers, principals, investors, creditors, stockholders, lessors and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of the receivership defendants or any of their subsidiaries or affiliates (excluding plaintiffs), and all others acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs, constables, marshals and other officers and their deputies, and their respective attorneys, servants, agents, and employees, are hereby stayed and restrained from:

- A. filing any petition for relief under the United States Bankruptcy Code;
- B. commencing, prosecuting, continuing, or enforcing any suit or proceeding against the receivership defendants, except that such actions may be filed to toll any applicable statute of limitations;
- C. commencing, prosecuting, continuing, or entering any suit or proceeding in the name or on behalf of the receivership defendants, their subsidiaries, or affiliates;
- D. accelerating the due date of any claimed obligation, enforcing any lien upon, taking or attempting to take or retain possession of any property of the receivership defendants or any property claimed by the receivership defendants, or attempting to foreclose, forfeit, alter, or terminate any of the receivership defendants' interests in property, whether such acts are part of a judicial proceeding or otherwise;
- E. using self-help or executing or issuing, or causing the execution or issuance of, any court attachment, subpoena, *replevin*, execution or other process for the purpose of

impounding or taking possession of, or interfering with, or creating or enforcing a lien upon any property, wheresoever located, owned by or in the possession of the receivership defendants, or the receiver or any agent appointed by the receiver; and

F taking any action or doing anything whatsoever to interfere with the receiver taking control, possession, or management of the property subject to this receivership, or to harass or interfere with the receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the property and assets of the receivership defendants.

PROVIDED HOWEVER that this paragraph does not stay:

1. The commencement or continuation of a criminal action or proceeding;
2. The commencement or continuation of any civil or criminal forfeiture proceeding;
3. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
4. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
5. The issuance to a receivership defendant of a notice of tax deficiency.

PROVIDED FURTHER that except as otherwise provided in this Order, all persons and entities in need of documentation from the receiver shall in all instances first attempt to secure such information by submitting a formal written request to the receiver, and, if such request has

not been responded to within thirty (30) days of receipt by the receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

XVI.

Transfer of Control to Receiver

IT IS FURTHER ORDERED that

A. all defendants shall fully cooperate with and assist the receiver, and are hereby restrained and enjoined from directly or indirectly hindering or obstructing the receiver in any manner; and

B. immediately upon service of this Order, defendants shall transfer or deliver possession, custody, and control of the following to the receiver:

1. all assets of the receivership defendants;
2. all documents of the receivership defendants, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, deposit slips and check registers), client lists, customer files, title documents security agreements, promissory notes, deeds, deeds of trust, financial statements, inventories, UCC financing statements, and other papers, and any computers or computer disks wherein such documents are stored;
3. all assets belonging to members of the public now held by the receivership defendants; and
4. all keys and codes necessary to gain or to secure access to any assets or documents of the receivership defendants, including, but not limited to, access to their

business premises, means of communication, accounts, safe, computer systems including passwords, or other property;

C. In the event any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Paragraph, the receiver is instructed to file *ex parte* an affidavit regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, city, or town (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset, document, or other thing and deliver it to the receiver.

XVII.

Investigation by Receiver

IT IS FURTHER ORDERED that the receiver may investigate the defendants, current and former employees of the receivership defendants, and related parties in connection with discovering additional information as it relates to activities of the receivership defendants. The receiver shall have the authority to investigate regarding such related parties and employees prior to filing any litigation, and shall have the express authority to order consumer reports in the course of any such investigation.

XVIII.

Limitation of Liability for Receiver

IT IS FURTHER ORDERED that, except for an act of gross negligence, the receiver and all persons engaged or employed by the receiver shall not be liable for any loss or damage

incurred by the defendants, or any other person or entity, by reason of any act performed or omitted to be performed by them in connection with the discharge of their duties and responsibilities in this matter.

XIX.

Credit Reports

IT IS FURTHER ORDERED, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b, that any credit reporting agency may furnish the Commission with a credit report concerning any defendant.

XX.

Monitoring

IT IS FURTHER ORDERED that agents or representatives of the plaintiffs may contact the defendants or their agents or representatives directly and anonymously for the purpose of monitoring compliance with Paragraphs I through V of this Order, and may tape-record any oral communications that occur in the course of such contacts.

XXI.

Expiration

IT IS FURTHER ORDERED that this Order shall expire ten (10) days after entry unless, within such time, for good cause shown, it is extended for a like period, or unless defendants consent that it may be extended for a longer period and the reasons therefor are entered of record.

XXII.

Service of Responsive Pleadings

For the purposes of this Order, all correspondence and service of pleadings on plaintiffs shall be addressed to each plaintiff at the address given on the signature page of the complaint.

XXIII.

Service of this Order

IT IS FURTHER ORDERED that pursuant to Fed. R. Civ. P. 4(c)(2), this Order and other initial pleadings and papers filed in this matter may be served by employees of the FTC, by employees of any other law enforcement agency, and by agents of any process servers retained by the FTC, upon any defendant, upon the business premises of any defendant, and upon any financial institution or any person or entity that may be in possession of any assets, property or property rights of any defendant.

XXIV.

Preliminary Injunction Hearing

IT IS FURTHER ORDERED that

- A. defendants shall prepare and deliver to the Court, to each plaintiff, and to the receiver, not later than 4:30 p.m. of the third business day prior to the preliminary injunction hearing, any opposition to issuance of a preliminary injunction, including any declarations, exhibits, memoranda, or other evidence on which they intend to rely;
- B. if any party to this action intends to present the testimony of any witness at the preliminary injunction hearing in this matter, that party shall, at least forty-eight hours prior to the scheduled date and time of hearing, file with this Court and serve on all other

parties, a witness list which shall include the name, address, and telephone number of any such witness, and either a summary of the witness's expected testimony or the witness's affidavit or declaration revealing the substance of such witness's expected testimony; and

C. defendants shall appear before this Court at

United States District Court - Norfolk Division, on the
26th day of October, 2001, at 10:00 o'clock a.m./p.m., to

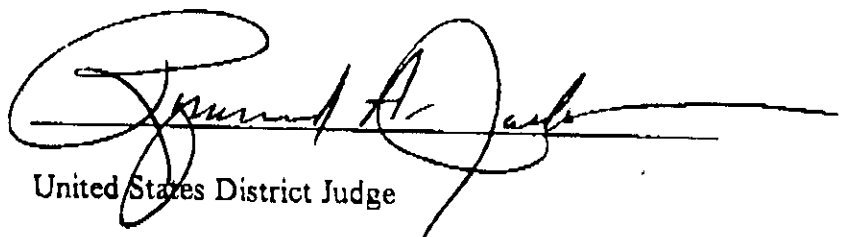
show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint, against said defendants enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); the Federal Trade Commission's Telemarketing Sales Rule, 16 C.F.R. Part 310; the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq.*; the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.1 *et seq.*; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1 *et seq.*; the North Carolina Telephonic Seller Registration and Bonding Act, N.C. Gen. Stat. § 66-260 *et seq.*, the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(1) *et seq.*; and imposing such additional relief as may be appropriate.

XXV.

Retention of Jurisdiction

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all purposes.

SO ORDERED, this 15th day of October, 2001, at 3:00 o'clock ~~a.m.~~ / p.m.


United States District Judge

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A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT

BY Rhonda D. Timbrell
DEPUTY CLERK